OK to enter EA 2/27/07

REMARKS/ARGUMENTS

Claims 58-62 are pending in this application.

I. Claim Rejections Under 35 U.S.C. §§101 and 112, First Paragraph (Enablement)

Claims 58-62 remain rejected under 35 U.S.C. §101 because allegedly "the claimed invention is not supported by either a specific and substantial asserted utility or a well established utility." (Page 2 of the instant Office Action).

Claims 58-62 further remain rejected under 35 U.S.C. §112, first paragraph, allegedly "since the claimed invention is not supported by either a specific and substantial asserted utility or a well established utility for the reasons set forth above, one skilled in the art clearly would not know how to use the claimed invention." (Page 3 of the instant Office Action).

Applicants submit, as discussed below, that not only has the PTO not established a *prima facie* case for lack of utility, but that the antibodies of Claims 58-62 possess a specific and substantial asserted utility, and that based upon this utility, one of skill in the art would know how to use the claimed antibodies without any further experimentation.

The gene amplification data disclosed in Example 114 establishes a credible, substantial and specific patentable utility for the PRO274 polypeptide and the claimed antibodies that bind it.

First of all, Applicants respectfully maintain the position that the specification discloses at least one credible, substantial and specific asserted utility for the PRO274 polypeptide and the claimed antibodies that bind it for the reasons previously set forth in Applicants' Responses filed on September 14, 2004 and August 31, 2005, in the Appeal Brief filed February 17, 2006, and in the Preliminary Amendment filed August 3, 2006.

Furthermore, as first discussed in Applicants' Response of September 14, 2004, Applicants rely on the gene amplification data for patentable utility of the PRO274 polypeptide and the claimed antibodies that bind it, and the gene amplification data for the gene encoding the PRO274 polypeptide is clearly disclosed in the instant specification under Example 114. As previously discussed, a ΔCt value of at least 1.0 was observed for PRO274 in at least three of the lung tumors listed in Table 9. Table 9 teaches that the nucleic acids encoding PRO274 showed approximately 1.00-1.61 ΔCt units which corresponds to $2^{1.00}$ -$2^{1.61}$ fold amplification or 2.0 fold to 3.05-fold amplification in three types of human primary lung tumors, LT4, LT16, and LT18.